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STANDING COMMITTEE ON SOCIAL DEVELOPMENT
TORONTO HOSPITAL ACT
MONDAY, OCTOBER 27, 1986



STANDING COMMITTEE ON SOCIAL DEVELOPMENT

CHAIRMAN: Johnston, R. F. (Scarborough West NDP)
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Offer, S. (Mississauga North L)
Reycraft, D. R. (Middlesex L)
Ward, C. C. (Wentworth North L)

Substitution:

Cooke, D. S. (Windsor-Riverside NDP) for Mr. R. F. Johnston

Clerk: Carrozza, F.

Staff:

Mifsud, L., Legislative Counsel

Witnesses:

From the Canadian Union of Public Employees:

Bird, J., Assistant Regional Director, Ontario Regional Office
Schyngera, R., President, Local 2001, Toronto General Hospital

From the Toronto General Hospital:

Stoughton, V., President
Bakker, G., Vice-President, Human Resources
Kenny, W., Legal Counsel
Shirriff, R. L., Legal Counsel; with Fasken and Calvin

From the Toronto Western Hospital:

Taylor, M., Acting President

From the United Plant Guard Workers:

Crawford, D., Representative, Toronto General Hospital

From the Ontario Nurses' Association:

Nousiainen, S., Research Officer
Hodder, M., Manager, Employment Relation Services

From the Ministry of Health:

Campbell, M., Legal Counsel

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday, October 27, 1986

The committee met at 3:31 p.m. in committee room 1.

TORONTO HOSPITAL ACT

Consideration of Bill 129, An Act to amalgamate Toronto General Hospital and Toronto Western Hospital.

The Vice-Chairman: Let us begin our deliberations with respect to Bill 129.

I ask Jack Bird, assistant director of the Canadian Union of Public Employees, Ontario Region, Toronto General Hospital, to come forward, along with any persons whom he may wish to accompany him to the table.

Welcome. You may proceed in any form you wish. Do you have a written document that you will be circulating?

Mr. Bird: Yes, I do.

Mr. Chairman: If you will give those to the clerk, he will distribute them. If you are speaking, I just remind you to lean forward into the mike a bit so that we are certain to get your words for posterity.

Mr. Bird: That is what I am afraid of.

Mr. Chairman: Would you care to introduce those who are accompanying you?

CANADIAN UNION OF PUBLIC EMPLOYEES

Mr. Bird: Yes. I have one correction, Mr. Chairman. I am appearing on behalf of the employees of Toronto General Hospital and Toronto Western Hospital. On my immediate right is Al Wahid, who is president of Local 1744, which represents the employees of Toronto Western Hospital. On my far right is Roman Schyngera, who is president of Local 2001, which represents the employees of Toronto General Hospital.

Mr. Chairman, with the indulgence of yourself and the committee, in that you did not have an opportunity to go through our brief in advance, I would like to lead you through our brief and make editorial comments. Depending on what procedures you want to follow, I am available to answer questions at any point in the proceedings.

The Vice-Chairman: That is fine. You have about half an hour. Could you time yourself accordingly so that we do not run on too long and delay others who are expecting to appear on schedule?

Mr. Bird: Normally, I do not approve of reading a brief in its entirety, but we did not have an opportunity to present it to you in advance. If questions are going to be asked, obviously they should be asked with the full knowledge of the contents of the brief.

I will give you a bit of background. The members of CUPE Local 1744 and Local 2001 welcome the opportunity to appear before the standing committee and present our concerns stemming from Bill 129. At the two hospitals CUPE represents--and there is a correction here--we currently have collective agreements covering 1,500 employees. We have recently been certified for another 400 part-time employees at Toronto General Hospital and will be commencing negotiation shortly on their behalf; so in total we represent about 1,900 employees at the two hospitals.

At Toronto General, Local 2001 represents 700 members employed in maintenance, dietary, housekeeping, nursing and other departments. In addition to that are the 400 part-time employees in the same categories. At Toronto Western Hospital, Local 1744 represents the same type of full-time and part-time staff, as well as employees of the detox centre and the clerical employees. The total number at Toronto Western is approximately 800.

Bill 129 deals essentially with how the two governing bodies and the administration of the two hospitals will function as one merged entity. However, in our view, what will happen to the employees as a result of the amalgamation is equally important, bearing in mind that the employees are also the ones who enable the services of the hospital to be offered. The hospital is more than just bricks and mortar; it is the people who make it a caring institution. Therefore, the protection of terms and conditions of employment for the hospitals' staff should also be an important part of the legislation governing the amalgamation.

It is not unusual for this matter to be dealt with in legislation regarding mergers or amalgamation of public bodies. For example, the previous Conservative provincial government ensured, through legislation, that municipal employees affected by the creation of regional municipalities were guaranteed continued employment and the continuation of various accumulated benefits. That is going back about 10 or 12 years ago, when regional governments were created across Ontario.

Also, Bill 30, the act to amend the Education Act, with all its imperfections, dealt with the continuation of specific employment rights and benefits in the event an employee was transferred from one board to another because of a rationalization of services.

In our view, it is only fair that legislation pertaining to the amalgamation of hospitals also ensure that current employees not be adversely affected.

I would like to deal with some of the developments at the hospitals. First, as one can easily imagine, the public announcement that the hospitals were considering amalgamation and the subsequent decision to do so was the source of considerable anxiety for staff. Particularly given today's cut-throat job market, our members were very concerned about the impact of the amalgamation on their future employment. Also of concern was what impact the amalgamation would have on their current employment rights and benefits enshrined in their collective agreements.

In response to questions from the locals and its members and in an attempt to alleviate some of the fears, the hospitals have developed draft general merger transfer guidelines. This is an extremely important development, but the guidelines are sorely inadequate in some crucial areas. We have tried to get these amended to cover our concerns properly, but to no avail.

Because of the inadequacies of the existing hospital guidelines and because we believe this legislation should also provide protection to employers, we would like to turn to an examination of the issues of concern that are not dealt with in the guidelines and that we think should be incorporated into Bill 129.

On that point, there has been minimal discussion between the local unions and the two hospitals involved on the whole question of merger. There was a report they received on September 26, which contained the draft guidelines. It was distributed last week to the employees in the hospitals concerned. In all this time, there has been an awful lot of anxiety and little done to alleviate it in a tangible way, other than bulletins that went out offering platitudinous assurances that everything would be okay; trust them. I would point out that throughout the guidelines, there are no guarantees offered.

I would like to discuss the Lapp report and the shortcomings of the hospitals' general merger transfer guidelines, as glaringly evident when compared to the recommendations of the Lapp report.

The Lapp report is the popular name for the Report for the Hospital Industry Labour Management Committee from the Subcommittee on Employee Transfer Arrangements. This report was developed by a special labour-management subcommittee with representatives of the Ontario Hospital Association, the four hospital unions, the Canadian Union of Public Employees, the Ontario Public Service Employees Union, the Ontario Nurses' Association, the Service Employees International Union and the chairperson appointed by the Ministry of Labour, Murray Lapp.

The purpose of the subcommittee was to examine the issue of transfer arrangements with a view to developing principles and guidelines for the use of the hospital industry in situations where rationalization or consolidation of services were to take place. The committee met on seven occasions from December 1984 to August 1985, by which time it had developed extensive guidelines to govern a variety of situations that arise in the process of rationalizing hospital services and employment. There was a very thorough discussion that led to this report, with participation from all involved. It was not at all one-sided.

The committee drew on its members' experience and a familiarity with the rationalizations that had previously occurred in the hospital industry to develop comprehensive guidelines that would avoid the uncertainty, upheaval and divisiveness characteristic of the past. It urged individual unions and hospitals to endorse these guidelines and use them in the event of future rationalizations.

15:40

The Ontario Hospital Association participated in the studies and endorsed them. We participated in the studies and have endorsed the Lapp commission report.

We were therefore very surprised and discouraged to see that the guidelines of the Toronto General Hospital and Toronto Western Hospital fell far short of those contained in the Lapp report. There is no acceptable reason that the guidelines developed by a joint labour-management committee specifically to govern this situation at the hospitals should not be applied.

We would like to draw the standing committee's attention to the guidelines contained in the Lapp report, which are not found in the hospitals' guidelines. In general, they fall into the following areas: transfer rights and procedures prior to rationalization; information to be provided to employees regarding displaced and available positions; procedures to maintain or transfer bargaining rights and union representation; and some of the issues surrounding seniority, wages and rights and benefits.

At this point, I will assume that you have received copies of the hospitals' guidelines.

The Vice-Chairman: I do not think so.

Mr. Bird: That was somewhat remiss on our part then. I am sorry I do not have copies for everyone, but we can provide you with a copy.

Mr. D. S. Cooke: Please give the clerk a copy and then go from there.

Mr. Bird: Let me deal with the transfer rights and procedures prior to rationalization.

The Lapp report contained guidelines to allow employees in a displaced unit the opportunity to transfer into other jobs in other units or the resultant receiving unit, before the merger actually takes place. We are talking here about prior planning. Allowing these early staff changes would help to alleviate problems arising from a more rapid loss, transfer or amalgamation of jobs later.

The specific wordings of these recommendations are as follows: In the unit to be displaced, and this is prior to rationalization, employees can post out of the affected unit to unaffected units. The unit can be reduced by attrition. Senior employees can effect their transfers early by posting into vacancies arising in the resultant unit. If there is a vacancy in the receiving unit--that is, where they would be transferring to--that is posted internally and not filled, or if there is a subsequent vacancy in the receiving unit resulting from an incumbent filling a posted vacancy, the vacancy can be filled by the senior eligible employee interested in the early transfer from the unit to be displaced. This opportunity would be offered prior to the resultant unit filling the vacancy with a new hire. The displaced employee facing such a position in the receiving unit would be treated as a transferring employee under these guidelines and not as a new hire.

Even prior to the actual merger taking effect, they have agreed on a procedure on how to reduce the impact through some prior planning. No such specific procedure is spelled out in the hospitals' guidelines. We believe such a provision is essential and in the hospitals' best interests to ensure a smooth transition on the delivery of services under the new merged entity.

Under the category of the information to be provided, the anxiety that comes from not knowing what one's future employment will be cannot be underestimated. Every possible effort should be made to provide employees with information as soon as possible about projected staffing needs. It is the only fair way to treat employees who have in many cases provided years of service to the hospitals. The Lapp committee recognized the importance of providing this information to employees. It also recognized that projected staffing needs will fluctuate as the date of actual transfer approaches, but that information should be provided as soon as possible and updated as the actual implementation date approaches.

Let me reiterate the specific recommendations. As soon as possible in the course of developing the implementation plan, the projected staffing needs of the resultant unit will be made known to the affected employees and unions. We have not as yet been told of any plans in the two hospitals.

At this time, the employer at the unit to be displaced will prepare a list of the employees of that unit in order of seniority by jobs for which they are eligible. This list will be updated to reflect any changes due to employees leaving or entering the unit. The estimated number and types of positions available in the new unit will also be shown, and these data will be updated as the rationalization plans are refined.

At present, nothing of this nature appears in the hospitals' guidelines. We believe the inclusion of these recommendations is essential, for the reasons mentioned.

Let me move now to the question of maintaining or transferring the bargaining rights in union representations. The Lapp committee also recognized that the units to be affected by the rationalization may be represented by different unions or by no unions in some cases. While the parties can seek resolution of this through the Ontario Labour Relations Board, guidelines were developed to seek to avoid this method of dispute resolution where possible--in other words, to have a smooth, orderly procedure established so that one is not tied up before tribunals, which would create further anxiety.

This is an another important area where the hospitals' guidelines are silent. Yet the situation at the two hospitals is this: CUPE represents some of the nonclerical support staff at both Toronto General and Toronto Western, but some of these classifications, such as the registered nursing assistants at Toronto General, are not represented by any union. This is also true for the clerical workers. CUPE represents the clerical employees at Toronto Western, but those at Toronto General are not unionized. Therefore, there is a fear there on the part of some of retaining the protection of their collective agreements.

In the light of this situation, we believe the recommendations in the Lapp report are important to include in Bill 129 so as to avoid, where possible, having to pursue this issue with the OLRB.

The recommendations are: "If the same union represents all employees affected in both the displaced and the receiving unit, then that union will hold the bargaining rights for the resultant unit.

"If more than one union holds bargaining rights for employees in the affected units, then the unions involved will request the Ontario Labour Relation Board's assistance in conducting a vote of all employees in the resultant unit, both part-time and full-time, in order to determine which union will hold the bargaining rights for the resulting unit. One of the unions involved may wish to waive the need for a vote." If there is a small unit, it might agree to hand over its membership to the larger union and thus avoid the necessity of a vote. "The operative collective agreement will be that of the receiving unit, administered by the union determined by such a vote or arrangement to hold the resulting bargaining rights.

"If the displaced unit is not represented by a union and the receiving unit is represented by a union, the union holding bargaining rights in the receiving unit will continue, with the transferring employees joining this bargaining unit.

"If the displaced unit is represented by a union and the receiving unit is not, it will be up to the union representing the transferring employees to pursue their interests as it sees fit." In other words, they can try to convince the majority in the receiving unit that they too should be represented.

On the question of rights and benefits, seniority is a very important consideration to all our members. Seniority is one of the most important rights contained in a collective agreement. It affects one's right to future employment in the event of layoff, opportunities for transfer and promotion, choice of shift, timing of vacation and more. It is absolutely essential that protection be provided for seniority rights.

The hospitals' guidelines address the issue of seniority in the following way: Point 1 states, "Each employee transferring will be treated, for purposes of seniority, as if they had always been employed at the receiving hospital." While this guarantee is important, it does not go as far as the Lapp committee guidelines, which are as follows:

"Seniority, nonmonetary, i.e., for the purposes of shift assignment, vacation scheduling, postings, layoff, recall, etc.:

"Seniority lists will be integrated.

"All affected employees will maintain their seniority dates.

"Transferring employees will be treated, as much as possible, as though they had always been employed at the receiving hospital.

"The exercise of seniority rights will be in the context of the receiving hospital's collective agreement."

Missing from the hospital's guidelines is the integration of seniority lists, an explicit guarantee of the maintenance of seniority dates and that seniority rights will be exercised in the context of the receiving hospital's collective agreement.

Given differences in the CUPE collective agreements at the hospitals which are yet to be resolved and the fact that some of the employees are not yet unionized, we consider the inclusion of these recommendations crucial.

The question of how differences in wage rates are treated is another important issue. The hospitals' guidelines include a statement that no transferring employee will suffer a reduction in wages as a result of a transfer.

This provision is also contained in the Lapp report. In addition, it goes farther by stating: "No employee will suffer a reduction in wages, i.e., employees transferring in and not having an identical wage step to move into will be moved up to the next higher step. Where the transferring employee's salary exceeds the range maximum, the employee's salary will be maintained."

"The collective agreement of the receiving hospital will be the operative schedule."

These two points are extremely important to provide in Bill 129. They provide clarification of how to handle unusual situations, for example, where

there is no identical wage step to move into and where an employee's salary exceeds the maximum range. As well, it clarifies that the receiving hospital's wage schedule will be the operative one,

15:50

These provisions are very important because such a variety exists between wage rates and wage steps. Such a provision goes a long way towards preventing the divisive situation where two employees working side by side in the same classification are receiving different wages.

On the matter of benefits, a legislative provision governing the status of many of the different forms of benefits is also important. The establishment of these plans has taken many years of negotiations and difficult tradeoffs. Employees should therefore not be adversely affected in this area.

In formulating a collective agreement, there are many tradeoffs. One collective agreement might have benefits in one area that another does not have, but negotiators traded something off to obtain those. If they lose that advantage when they transfer, they do not then regain what they traded away to gain that advantage, which they thought was important.

In both the Lapp report and the hospitals' guidelines, it is recommended that the benefit plan of the receiving hospital be the operative one. The hospitals' guidelines also provide for the waiving of waiting periods. Where practical, benefits will be maintained at the same level. It is the intent to standardize benefit programs between the two locations. We believe the last point is a statement of intent and a subject for negotiation between the parties, and therefore not a provision to be contained in the legislation.

The Lapp report also provides that "transferring employees who had certain pre-existing grandfathered benefit rights will retain them where practical, but these rights will not be spread to any wider group."

With the exception of the statement of intent, we believe these are all important points to have included in Bill 129.

The issue of a sick leave plan has been an extremely controversial one for CUPE hospital members. While protection of benefits is essential, it must be treated carefully.

A major cause of the illegal 1981 CUPE hospital workers' strike was dissatisfaction with an attempt to negotiate the application of HOODIP, the hospitals of Ontario disability income plan. Our members at the Toronto General Hospital are covered by HOODIP, and have been for some time. They elected to take HOODIP, but bear in mind that one of the major causes of the dispute in 1981 was an attempt by the OHA to impose HOODIP on all hospital workers in Ontario. These workers strenuously resisted. Our members at the Toronto Western Hospital are not covered by HOODIP and have their own sick leave plan instead. As a result, we are completely opposed to the hospitals' guideline with respect to the treatment of sick leave, which states, "Similarly, sick leave plans are under review to ensure standardization between the two locations and ensuring that employees maintain the same level of protection."

It causes a serious concern, because we have two collective agreements providing for two different provisions, and the hospitals' policy is saying

they are going to have standardization with no indication that there are collective agreements or that it is part of the collective-bargaining process. I suggest it is somewhat presumptuous of the hospitals to take that position.

Instead, we prefer to see the inclusion of the statement concerning sick leave from the Lapp report, which reads as follows, "Sick leave plans will be subject to the negotiations of the hospitals specifically involved using the principle of 'the least possible detriment to employees while involving the least possible assumed liability to the receiving hospital.' The outcome of such negotiations will vary depending on the nature of the plans and their funding."

There is a requirement that the parties negotiate what is going to become of the sick leave plans.

This general statement provides the flexibility that is essential to deal with this explosive issue. A strong argument can be made that the income disability plan sponsored by CUPE meets the statement of principle contained in the Lapp report far more than HOODIP does.

We have recognized the shortcomings in sick leave plans in hospitals that we feel are not met by HOODIP, which is a hospital industry plan for short-term and long-term disability. We have made our own plan available to our members across Ontario. The union-sponsored plan provides far better coverage at less liability to the employer, since it is completely member- or employee-funded. This was confirmed in Kevin Burkett's award for the hospitals that came down two weeks ago.

The importance of allowing our members to have a choice between HOODIP and the union-sponsored plan was recognized in a recent interest arbitration award covering 65 hospitals in Ontario. The arbitration board, chaired by Kevin Burkett, ordered that the hospital provide payroll deduction for the union plan when on a hospital-by-hospital basis, a majority of those eligible in the bargaining unit indicated a willingness to have the premium cost deducted from their wages. In addition, the board made the union responsible for ascertaining the wishes of its members.

Again, the hospitals' guidelines would almost represent an end run around the arbitration award that governs our members. We cannot state strongly enough how important this issue is to us.

The provisions of the Lapp report and the hospitals' guidelines regarding the treatment of vacation are virtually identical. They provide that, "All members will retain their present level of vacation entitlement or change to that of the receiving hospital, whichever is the greater. We also urge this committee to incorporate this provision into Bill 129.

On the matter of probation, the hospitals and the Lapp report are also consistent on that. I do not think I need to read it out, but we also ask that this be incorporated.

For the hours of work, both the hospitals and the Lapp report agree that, "The hours will be those of the receiving hospital." Again, we ask that that be incorporated into the legislation.

We find it ironic and frustrating that the hospitals' guidelines would be so consistent with those of the Lapp committee in some areas but not in all areas. We believe it indicates their ability to adopt these recommendations

but a desire to be selective in doing so. This does not indicate a very high level of respect for the effort that went into developing these guidelines for use by hospitals, by a representative labour-management committee.

The special committee that developed the recommendations contained in the Lapp report drew on a considerable amount of experience and expertise to draft guidelines that would overcome problems experienced in the past. The hospitals' decision to ignore this guidance will lead only to problems in certain areas, as we have described earlier.

We therefore urge this committee to include the recommendations of the Lapp committee in Bill 129, to ensure that the hospitals' employees will not be adversely affected by the merger, that their rights and benefits will be maintained and to make the transition an easier one.

There are a few additional areas of concern not dealt with by the Lapp committee that we believe merit attention. It is to this that we now turn.

Another area of concern for our members, that was not dealt with in the Lapp report or in the hospitals' guidelines, is the loss of positions due to contracting out. The threat of contracting out is a real one for our members. A number of Ontario hospitals have contracted out a variety of hospital services to private firms. This includes the wholesale privatization of the hospital administration, the work of certain departments or the management of certain departments. We are also disturbed by the recommendations contained in the Sherman report on health care commissioned by the federal Minister of National Health and Welfare, Jake Epp. The report contained a recommendation for the wider use of contracting out, housekeeping, dietary and laundry services in particular. It suggested that millions of dollars could be recouped annually in this way.

Currently, rumours are circulating at the Toronto General Hospital that management is looking into contracting out work in the maintenance and housekeeping departments as well as possibly implementing a quick-freeze food method in the dietary department.

The recent interest arbitration award covering 65 Ontario hospitals strengthened the contract provisions on contracting out, further restricting management's ability to do so. Again, it was the recognition by the arbitration board that there is a very real danger to employees in the health care system that their jobs are placed in jeopardy through contracting out.

This covers some of the members of Local 1744 at Toronto Western Hospital, but not all of them. It should also apply to members of Local 2001 at Toronto General Hospital, but management is currently disputing this. The reason is that Local 1744, Toronto Western, is covered by the central award. Local 2001 of Toronto General is not covered by the central award. There have been discussions between Toronto General and Local 2001 that they would abide by the decisions of the arbitration award, but at a recent labour-management committee, there was an indication by the hospital that while it was prepared to abide by the financial terms, it would not necessarily agree to all the other terms, which would include the restriction on contracting out.

Because not all our members will be covered by contract protection against contracting out and because there is ample evidence that contracting out results in a more expensive and lower quality service in the long run, we urge this committee to include a prohibition against contracting out in Bill 129. We feel this would be beneficial for both employer and employees. The

elimination of positions through contracting out seriously reduces the flexibility for absorption of staff.

Finally, in the hospitals' guidelines, the commitment has been made that, "No employee shall lose their employment as a direct result of the merger." I emphasize that they said "as a direct result," but nothing is said about an indirect result. This is a vital guarantee to alleviate employees' fear and anxiety and to make the necessary staff adjustments easier. Especially since the hospitals have made this pledge, we urge the committee to incorporate this guarantee into the legislation.

16:00

While it is absolutely crucial, we do not believe this guarantee in itself goes far enough. Since the merger was announced, a number of positions have been eliminated from our bargaining units. The hospitals are carefully and quietly reducing staff. We think this is a golden opportunity to alleviate some of the shortages that exist in many of the departments. If through a merger we find surplus staff in one department, let us move bodies around to maximize service to the public.

We are concerned that the merger will become an excuse for severe cuts in staffing. Even though this may be done through attrition, it is bound to have a negative effect on the quality of service as well as on the general morale of the staff. In many areas of the hospitals, our members are already finding it difficult or impossible to perform the amount of work they know should be done. To prevent this situation from worsening, we ask this committee to include in Bill 129 a guarantee against the further elimination of positions. At the very least, there should be that type of guarantee until experience itself, rather than blind assumptions, dictates what can and cannot be done.

In conclusion, we wish to reiterate that we are seeking protection for the employees of Toronto General Hospital and Toronto Western Hospital to be included in Bill 129, the legislation governing the amalgamation of these two hospitals. It is not unusual for such legislation to cover employee protection. Previous examples, as mentioned, include the acts governing the creation of regional municipalities, as well as Bill 30 which covers, among other things, the transfer of employees between school boards.

The main points we wish to see incorporated in Bill 129 include the protection spelled out in the Lapp report, a prohibition against contracting out, a guarantee that no employee will lose his employment as a direct result of the merger and protection against the further elimination of positions.

We thank you for the opportunity to appear before the committee and we welcome any questions you might have.

The Vice-Chairman: The members may take about five minutes for questions, if they have any.

Mr. D. S. Cooke: I have a couple of questions. Since the announcement was made last spring that this bill was going to come forward at some time, how have discussions with the hospitals taken place? How many direct meetings has the union had with management at the hospitals?

Mr. Bird: The presidents of the two locals can probably answer that better than I can. Most of the information has been communicated in the form

of news bulletins, which were vague. On one occasion, Toronto Western had a meeting of all the employees in the auditorium to say, "We really do not know what is going to happen, but no one is going to lose his job over it."

In about the middle of September, the president of Local 2001 at Toronto General was requested to attend a meeting. He was not advised of the purpose of the meeting, and because of the short notice could not attend. Had he been made aware that it was to discuss a merger, I am sure priorities could have been rearranged to permit attendance. It turned out that the meeting was basically tea and crumpets. They said: "We really do not know what is happening, but as soon as we know, we will let you know. Rest assured, nobody is going to lose his job." That was in late September.

Mr. D. S. Cooke: Even though there was a request that the bill pass in the spring, the first meeting where management sat down with the unions was in September and there was no formal agenda. This was not a negotiating session. It was supposed to be an information-sharing session.

Mr. Bird: In fact, they did not even seek input. It was described to me as a question and answer type of thing. Afterwards, a written document was placed before them. They had before them nothing in writing to discuss and there was no real opportunity for input.

Mr. D. S. Cooke: Was there any indication when anyone planned to sit down to talk turkey about some of these issues?

Mr. Schyngera: I will give you an example. We have been following the merger from its outset in February and March. We have been at monthly meetings and at each opportunity when we discussed this with management at the personnel level, it assured us everything was fine, the same thing the hospitals have been putting out to all the employees. However, when we asked for specifics, they kept saying, "We are not privy to that information, but when we get it...." As we rolled into summer, the bill had had first reading in the Legislature and we found we still did not have any information. They kept saying: "It will come to you when we know. We do not know."

Personnel has been giving us that type of assurance, which has been written. We are frustrated with that process, which is why we have been sitting down and trying to see where our positions are. I was invited to a meeting without an agenda. At that point it was said I refused a meeting, which upset me. That was the first time, last week, that any details of the policy were issued to all employees. We had been pushing on specifics.

Mr. D. S. Cooke: Were the unions asked for any input in the development of this policy?

Mr. Schyngera: No. We asked to submit it and they kept putting us off. The hospital has been in a revolving-door syndrome for the past year and a half. We have had three personnel management changes in our department. In fairness, they may not have known because they were simply put off. Because of the speed at which changes have been taking place in the past year and a half, our information has come when everyone else has known, through the board or whatever system they have. Personnel seems either not to know or fails to inform other than on a general basis, as with every other employee and with no details. Generalities are all that have been come forward.

Mr. D. S. Cooke: I know the chairman wantsd to move on but I have two other short questions.

Mr. Bird: Can I comment? A document was circulated to all staff of the two hospitals on October 1. It came from Mr. Stoughton, the president, and contained policy of the hospitals. It includes an interesting paragraph, which states: "This policy was reviewed and passed by the board of trustees, financial advisory committee/board, senior administrative group/administrative council, and the middle management groups of both hospitals. It has also been reviewed by various employee representative organizations." It was discussed, reviewed and passed by all sorts of people and allegedly reviewed by various employee groups. We are probably one of the largest groups in there but it was never reviewed with us.

Mr. D. S. Cooke: If we put a section in the legislation that guarantees jobs and wages--I have a draft of an amendment that will have to be changed a bit--what about something along the lines of:

"(1) substantially similar to the position in which the person was employed before amalgamation upon terms not less favourable as to remuneration and other benefits enjoyed by the employee before amalgamation; and

"(2) no employee of Toronto General or Toronto Western Hospital shall suffer a loss of employment as a result of the amalgamation."

If something such as that were put in the legislation, an additional section, referring to third-party arbitration, would obviously have to be put in as well, to determine whether it is a direct result of amalgamation, if difficulties arise. In your brief, you refer to trying to stay away as much as possible from third-party intervention. Can you see any way of determining this other than using an arbitration panel?

Mr. Bird: When I was talking about third-party intervention, I was thinking primarily of having to go before the Ontario Labour Relations Board. In at least one other area I have been involved in with hospitals talking mergers and transfers, the hospitals themselves proposed a letter of understanding that would have been signed by, and been binding upon, both parties. That would have given us access to arbitration to resolve it if we could not agree on the interpretation. It was basically the Lapp commission report. They were willing to incorporate it in a document that would be executed between, and binding upon, the parties. That kind of requirement in the legislation would give us the protection we are seeking.

Mr. D. S. Cooke: I have a question on contracting out. If we put something in about contracting out, we will probably have to have a sunset provision in as well, because we are dealing with an amalgamation bill. Probably an argument can be made that we cannot eliminate the possibility of ever having contracting out when we are trying to deal with a bill that deals with the subject of amalgamation. Would you be happy if we put a section in the bill that said there would be no contracting out for a specified period of time? What would that specific period be in your view? I know your position on contracting out and you know my position on contracting out, but we are dealing with amalgamation.

16:10

Mr. Bird: We could have a good argument on that. At present, we have no idea what the timetable is on how fast things will proceed. At the very

least, there should be a period of two or three years following amalgamation of departments when contracting out would not be allowed in order to determine what the full requirements will be and give them the flexibility of changing staff around. If you contract out a large department, those positions are not available to you to absorb staff that might be surplus in another area, even though there might very well be a need in that department.

Mr. D. S. Cooke: If we put in a provision that called for no contracting out for a two-year or three-year period, that would be of some assistance.

Mr. Bird: It would give both sides an opportunity to work with it and determine more accurately what the needs will be into the future, as opposed to suppositions.

Mr. Reycraft: My question relates to statements made near the end of the brief referring to the fact that the number of positions has been reduced gradually over the time since the merger was first announced. Can you expand on that a bit with some numbers?

Mr. Schyngera: Yes. Approximately two years ago, prior to the merger, we were in the range of 770 to 780 regularly in the full-time bargaining unit. As the merger approached, we got into the 750 range, and there was a policy instituted by the hospital approximately a year and a half ago that talked about no replacements of staff for illness unless requests were made to middle administration and that type of thing. That seemed to be coincidental to us.

There was also what they called hospital assistant reassessments or technical layoffs to other positions, demotions, on a wholesale scale. Since that time there has been a reassessment under their policy for the hospital to review positions every six months as needed.

In that period, approximately one year, we have gone from a stable range of about 750 to the last count we had, which was below the 700 range. We have frozen out approximately 50 to 60 positions. We do not know whether we will get them back. We have chronic shortages of staff and we feel that pressure right now.

In other words, the reassignment business and the recent memo issued by middle administration has now firmed up the previous document of a year and a half ago about staff getting approval by middle administration. It has been dropped and deleted in favour of no replacement of staff irrespective of need, unless it is an absolute emergency.

The prior document talked about rationalizing two positions for one and that type of thing. Now that is totally out. As an example, we have been running our night shift, when we have eight people normally, with one person in the hospital assistant category covering five buildings, which is absurd. It is impossible. That type of thing has happened recently. It is because of the effect of the 60 positions; we are running with chronic shortages.

Mr. Reycraft: Have you sought an explanation?

Mr. Schyngera: Yes, we have. All we get is the same pap: "We are under a policy of review. We will wait to see." For example, they are talking about a total attrition of the hospital assistants in January in a pool. I do

not see how. The nurses are complaining, but they are saying it is fine. Everything we get from them is on paper. It seems nicely reviewed.

When I ask the Ontario Nurses' Association people or other staff groups how they are reacting to our nonassistance, because we service other units, for example, hospital assistance to nurses and that type of thing, they are finding pressures and back rate injuries are increasing.

When we bring that to management people's attention, they seem to refute those figures or simply say: "We are studying it. Everything will be fine. We have a review process." Frankly, I do not know. When it comes down to personnel and lower and middle administration, they do not seem to have those figures. All they are saying is that they are evaluating and waiting for a word from on high. That is the whole process of frustration in the past year and a half.

Mr. Reycraft: Is it your view that attrition would not have occurred had they not been talking about a merger?

Mr. Schyngera: Let us put it this way: For the attrition process that took place, there was a rationalization taking place to some extent previously, but not to the accelerated extent we are experiencing now. As I say, the information was more forthcoming before; so I feel there has been an accelerated process that is clearly going on right now. The reductions we are feeling are accelerated.

Mr. Reycraft: I have one more brief question.

Mr. Vice-Chairman: Mr. Offer will have to be very brief, following you.

Mr. Reycraft: Yes. Is there any protection in any of the existing contracts of the collective agreements against contracting out?

Mr. Bird: Yes, there is.

Mr. Reycraft: Can you describe those very briefly?

Mr. Bird: I do not have the collective agreements in front of me, but off the top of my head, it would be that no employee shall lose his job as a direct result of the contracting out of services. The arbitration award confirms that and also states the employer can contract out, but the contractor must guarantee conditions of employment equal to the conditions of employment in the hospital. Basically, the contractor cannot exploit labour by bringing in people at the minimum wage.

Mr. Offer: I have a question with respect to the introduction at the bottom of page 1 and over on to page 2, where you talk about it not being unusual with respect to the employment rights. You use the regional municipalities example and the Bill 30 example.

Mr. Bird: Right.

Mr. Offer: I am asking you to expand upon that, keeping in mind, for instance, that Bill 30 was not an amalgamation of any nature or kind. It might have been a new form of existence between two boards in that case, but they did retain their distinctiveness. With respect to the regional municipalities, I believe it concerned the creation of a regional municipality and the

possible effect it might have on the municipality, which also retained its own distinctiveness. Again, there was no question of amalgamation. Can you expand on why those two examples are a reason for or fall in line with this amalgamation?

Mr. Bird: In the first place, regional government did not retain the individual identities. What we had created, first of all, was a two-tier system of government, where we had the local municipalities retaining responsibilities for certain functions and the upper tier or the regional government assuming certain responsibilities which had previously belonged to the municipalities. However, municipalities were also combined into enlarged municipalities. One of those that comes immediately to mind is the village of Pickering, which was absorbed by the town of Ajax. Municipalities were combined. In that case, the legislation stated that every employee shall be guaranteed employment and conditions of employment for a period of one year following the creation of the municipal government.

In the case of the school boards, I agree. I think the government has been careful in ensuring that the identity of the two school systems is retained--there were some very real fears there--yet it has also recognized that because of the extension of funding, there will be a shifting of services or utilization of services from one system to the other, which will create a demand for staff in one area and at the same time lessen the demand for employment in the other system. The government has said that no employee should be adversely affected because of the extension of funding to the separate school system.

The Vice-Chairman: I think your point is clear. One might quibble about an application, but the point is obviously clear.

I see there are no further questions. I thank you very much for appearing before us. You have left your written brief with us. If there is anything further you wish to communicate to us, please do not hesitate to do that.

Mr. Bird: Fine. Once more, I thank you very much for the opportunity to appear.

The Vice-Chairman: My apologies to Chris Ward, who is sitting in this afternoon for the Minister of Health (Mr. Elston), for not introducing him at the beginning of our proceedings. His staff assistant, Martin Campbell, is here to give us a hand as well.

I also neglected to state at the beginning of the session that this committee is normally a no-smoking committee. We established that rule when we began our sittings this fall. Those who are currently lit up may complete whatever item they have in their possession at the moment. Then please douse it if you do not mind and smoke in the hall for the comfort of most of those present.

I ask Mr. Taylor and Mr. Stoughton to come forward. I believe you are appearing together. Mr. Taylor is the acting president of Toronto Western Hospital and Mr. Stoughton is the president of Toronto General Hospital.

You have someone else with you, I see. Please introduce any other person you are bringing forward and then proceed as you will.

TORONTO GENERAL HOSPITAL/TORONTO WESTERN HOSPITAL

Mr. Stoughton: Mr. Chairman, we appreciate the opportunity of making a presentation to the committee. I might introduce the people sitting at the head table. Mr. Taylor is on my extreme left, and legal counsel are on my left and right. We are also represented by the board chairmen of both hospitals. Mr. Crossgrove from Toronto Western Hospital is also chairman-elect of Toronto Hospital. Immediately behind me is Mr. Powis, chairman of Toronto General Hospital and vice-chairman elect of Toronto Hospital.

The Vice-Chairman: We welcome them all. Can you name the counsel so that we are able to record appropriately who says what if they contribute to the discussion.

Mr. Stoughton: I should also introduce Gerry Bakker, vice-president of human resources, who will be here to answer any questions from the committee relative to some of the labour issues that may come up.

We are pleased to have the opportunity to present the rationale for the merger between the Toronto General Hospital and the Toronto Western Hospital. Prior to answering any questions the committee may have, I would like to review some background information for the members and respond to a number of matters that were raised in the Legislature at the time of second reading of Bill 129 last Tuesday.

Toronto General Hospital is one of Canada's largest acute care facilities. It has 1,000 beds and basically has the capability to treat any illness or injury that might be presented at its doors. It is important to understand that Toronto General Hospital is a principal referral institution for the province. As such, the hospital does not have a community in the sense that one identifies a constituency by drawing lines on a map. In other words, it is hard to pinpoint where the patients come from because they come from all over the province.

TGH has an annual operating budget of about \$180 million, is staffed by approximately 3,500 employees and has 750 members on the medical staff. Today there are six collective agreements representing five different unions, the Ontario Nurses' Association being the largest, with over 25 per cent of the total.

Toronto Western Hospital, which celebrates its 90th birthday this year, has 660 beds and a current operating budget of about \$100 million. The 2,300 staff members, of whom 1,850 are unionized, are represented by five unions and eight collective agreements. Toronto Western Hospital, in comparison with the Toronto General Hospital, has a distinct community. A recent demographic analysis of patients attended at Toronto Western Hospital, both ambulatory--that is, outpatient--and inpatient shows heavy use of the hospital by the Chinese in the surrounding community and also by the Portuguese community to the north and west of the hospital.

In May 1985, discussions began between Toronto General Hospital and Toronto Western Hospital to explore whether a consolidation would be beneficial to the hospitals, to the patients and to the University of Toronto--understand that both these hospitals are teaching institutions and as

such conduct teaching and research programs--and in a sense whether such a merger might be beneficial to the provincial health care system.

All staff were initially informed of the potential merger in early October 1985 when some of the private discussions were made public. This was done through a letter to all employees. In that letter we indicated the primary reasons for considering the merger, and I repeat them here.

The first is a desire on the part of both hospitals to be more responsive to the pressures that affect the provision of health care services. The second is a desire to better aggregate available resources in the most efficient and effective manner in order to provide better quality care, better teaching and superior medical research.

Since the process began, all staff with ideas, questions or concerns have been invited to bring them forward. A discussion paper released to employees in October 1985 clearly stated the following:

"The question that needs to be addressed by the boards concerns what a decision would mean to the health care system of Ontario, to the patients, to the staff and the programs of the Toronto General Hospital and Toronto Western Hospital, to the University of Toronto and to the government of Ontario.

"During the period from October 1985 to February 1986, many discussions took place addressing the questions to which I have referred. These discussions culminated with both boards of trustees meeting on February 11, 1986, but voting almost simultaneously in favour of merging the two institutions.

At a press conference on the next day, February 12, 1986, following the board meetings, and in a letter the same day to all staff at both institutions, the following was stated:

"The merger now agreed to will see a consolidation of existing boards into a single board responsible for the programs and services of its two operating divisions, the divisions being the Toronto General and the Toronto Western. Each operating division will continue to retain its current name and operate as the Toronto General and as the Toronto Western in the eyes of the public. Each hospital will continue to function as a broad-based general hospital with program commitments to clinical and academic excellence."

The letter further stated, "The staff of the Toronto General Hospital and the Toronto Western Hospital will not lose employment as a direct result of the merger of the two hospitals."

The formal vote of the boards to approve the merger also made the approval conditional on job security for each employee. This was communicated to all staff at both hospitals.

Since that time and continuing to this day, the discussions referred to have resulted in a flow of information as it became available to all staff, the Ministry of Health, the University of Toronto, the District Health Council of Metro Toronto and to other hospitals in the Metro area that might be affected as a result of merger considerations.

As happens in any merger situation, staff unrest and concerns over perceived uncertainty in relationship to job security have surfaced. A policy was prepared and then reviewed and passed by the board of trustees of both

institutions, reviewed and passed by both medical advisory boards, both senior administrative groups and both middle management groups. It was also reviewed by various employee representative organizations. A special meeting was held with the unions to review the proposed policy.

The policy and its accompanying letter, which I believe was circulated to all of you, stated: "No employee shall lose employment as a direct result of the merger. All current contractual or individual obligations will be respected and adhered to in each individual location." I am quoting from that policy. Furthermore, the policy notes, "All transfers of each individual, unit or department will be discussed on a separate and individual basis."

For just a moment let me go back to the question: Why merge?

Our situation is no different from similar mergers across Canada or, for that matter, right here in Ontario. Mergers mean greater co-ordination and communication which, in turn, leads to greater efficiencies and more rational use of limited resources.

Mergers usually result in consolidation of underutilized, duplicated services and equipment, leading to savings which have been available to promote new and expanded health care programs to the benefit of the citizens we serve. Other centres that have gone through mergers have clearly found these advantages--and we expect to find the same--that is, that a merger will result in savings and these savings can be allocated to improved health care services.

We expected when we merged there would be a number of very specific benefits. The benefits include high volume competitive purchasing for pharmaceutical, medical, dietary, office and other supplies and, hence, lower costs. Centralized support services such as accounting, computerization, inventory control and distribution will reduce duplication and, in turn, reduce overhead expenses. Reduction of underutilized duplicated services and equipment would see cost savings. Based on discussions with the government, all these economies would, in turn, be available within the institutions for patient care services.

Improved medical manpower planning, improved medical information systems, improved response to community needs through improved patient accessibility as a result of single-patient registry, medical records and bookkeeping systems, which should result in the elimination of an entirely duplicated board and administrative structure within a few blocks of one another, will also have an impact on reducing expenses.

Since the announcement of the merger, I am pleased to report that approximately \$400,000 has been saved in corporate purchasing alone. We fully expect this figure to climb to approximately \$1 million by the fiscal year-end. As has been previously publicly stated, we believe we will save annually between four and five per cent of the combined Toronto General-Toronto Western budget over a period of three to five years and that budget amounts to \$280 million.

This means that in excess of \$10 million in cost savings or cost avoidance will be saved and directed back into the merged hospitals for new and expanded patient care programs, equipment acquisition or other things required by the public we attempt to serve. This will enable us to stay current in the ever-changing world of medical treatment.

16:30

I would now like to turn your attention to some of the specific matters raised in the legislation. First of all, I will state that this bill is not precedent-setting. However, our experience will be viewed very carefully by all hospitals throughout this province. The merits of each merger must be clearly delineated for each institution and carefully reviewed in relation to the health care system in Ontario. We believe the discussion we are having today is an important part of that process.

A matter raised in the Legislature related to concern over job security. The hospital cannot be any more specific than to indicate clearly, in writing, to each and every employee, that jobs are secure at the same rate of pay, the same benefits and the same seniority. Furthermore, the passage of Bill 129 in no way interferes with, changes or amends any of the collective agreements now in place. No decisions have been made concerning program consolidations or changes to date. Once such decisions are taken, each of the affected employees will be brought into the decision in accordance with the policy that is before you.

Another matter raised was the proposed composition of the board of trustees of the new corporation. That composition is outlined in the bill on page 3, section 6. The current trustees of both the Toronto General Hospital and the Toronto Western Hospital remain in office until their successors are appointed or elected in accordance with the act.

The constitution of the new board of trustees mirrors the former board in that there are three trustees appointed by the province, four by the University of Toronto, three by the city of Toronto, two representatives from the auxiliary and 11 representatives from the corporate membership, that is, individuals who have given \$100 each year to the hospital, the president of the corporation, who is ex officio, and three physicians as required by the Public Hospitals Act.

Both the current boards and the new board are entirely community based. For example, Toronto Western, with a strong patient population from the surrounding area, has a representative on the board from the Chinese community and another representative from the Portuguese community. The city of Toronto representatives on both boards were chosen following either election as aldermen or selection by city council following public meetings at city hall that were widely advertised. Those individuals who financially support the hospital and its activities also have a place on the board, as do the volunteers and auxiliary who give of their time to these great institutions.

I will not take the time here, but if I were to review the board composition in detail, member by member, you would find there is no finer representative sample of the community we serve. We are extremely proud of the amalgamated board and we are fortunate to have such a talented group of concerned citizens. I point out again that many of the people on the board are appointed as opposed to elected. I would put that process up against more than 90 per cent of the boards in the province.

In discussions prior to introduction of this bill, representatives of the New Democratic Party have appropriately reinforced employee concerns over job security. We at Toronto General and the Toronto Western have welcomed this input. It has helped us to focus our attention further on legitimate employee concerns, yet we feel we are openly addressing these concerns through the responsible actions of the board of trustees and management. Each of you is

aware that health care institutions in this province are governed by the active participation of dedicated, well-qualified, public-spirited citizens. This has helped to achieve a system that has produced some of the finest medical institutions in the land and that is the cornerstone of the health care system right across this country.

In conclusion, I hope you will consider carefully our reasons for this merger, the potential benefits to two of the province's major teaching hospitals and the benefits to the health care system throughout Ontario and, above all, to the thousands of patients who are treated and will continue to be treated in a manner that is even more cost-effective and meets our mission of excellence in patient care, teaching and research.

Thank you very much. We will be happy to answer any questions.

Mr. Andrewes: You mentioned that both hospitals are currently affiliated with the University of Toronto and both are teaching hospitals. Will that arrangement be altered in any way by the merger?

Mr. Stoughton: Not at all. The relationship will continue to be as strong after the merger as it is currently.

Mr. Andrewes: In reference to the policy statement, I believe you read from policy 10-070.

Mr. Stoughton: That is correct.

Mr. Andrewes: In item (ii) under policy it says, "employees transferring as a result of the merger from one hospital to the other will be treated as nearly as possible as if they had always been employed by the receiving hospital." Are there situations currently existing between the two hospitals where one group of employees is represented by a union in one hospital but is not in another?

Mr. Stoughton: That is correct.

Mr. Andrewes: Given that situation, how do you expect to put policy statement (ii) in place?

Mr. Stoughton: It is up to the employee group whether an employee is represented by the union. If an employee is transferring from a nonunion environment to a union environment, he will be required to join the union, but his seniority will be maintained at the existing level, even though he is coming into a union environment.

Likewise, if an employee transfers from one hospital to the other, from a union to a nonunion environment, he will no longer be a member of the union unless the employee group in that other environment decides it wants to be represented by a union. The commitment to the employees is to honour the seniority level, the date at which the employee was originally hired.

Mr. D. S. Cooke: How can you assume that if a nonunion employee is moving into a union environment, his seniority is going to be integrated, when you have not negotiated it with the union?

Mr. Stoughton: I would like our legal counsel to answer that.

Mr. Kenny: My name is Wallace Kenny and I act in labour matters for

Toronto General Hospital. Our firm also deals with Toronto Western Hospital, so I guess we are already merged. With respect to seniority matters, as the guideline indicates, all matters dealing with specific bargaining units in the hospitals will be subject to negotiation. As Mr. Stoughton indicated, when actual movements are being contemplated and are known, those discussions will be full and frank. There is an obligation under the act to negotiate with the unions on that.

Mr. Stoughton: The other part of the answer is that if an employee decides he does not want to go to a union or a nonunion environment, the hospital has guaranteed a job. It will have to find a satisfactory job within the hospital. The policy specifically says we will sit down and have a discussion with every employee.

Mr. Kenny: In addition, section 63 of the Labour Relations Act provides an avenue whereby the Ontario Labour Relations Board can resolve disputes between unions which arise as a result of mergers of operations. That would certainly apply in these circumstances. There is a large body of jurisprudence in this area dealing with the various situations that can apply. They can be quite varied.

Mr. D. S. Cooke: Then the answer to Mr. Andrewes's question is that if a nonunion employee is moving into a union environment, he is not going to be guaranteed his seniority. It is going to be subject to negotiations with the union.

Mr. Kenny: That is true, although most of the unions in the hospital have expressed their interest in having that it occur, because they have the reciprocal interest if it happens the other way.

Mr. D. S. Cooke: I am sure they would be interested in it occurring, but to say in either written form or in front of a committee that it is going to happen is presumptuous when negotiations have not occurred with the union.

Mr. Stoughton: We are following the guidelines in the Lapp report, in which the unions agreed to this type of approach. What you are saying is technically correct. There is nothing else I can say about it. It is in accordance with what is in the Lapp Report.

Mr. Andrewes: What is the significance of the term "as nearly as possible" in item (ii) of the policy?

Mr. Stoughton: It is an issue subject to negotiations. That is really what it refers to. It recognizes the fact that there may be unusual circumstances in each individual situation. It is subject to negotiation, and that is why it says "as nearly as possible."

16:40

Mr. D. S. Cooke: When the hospital was developing this policy, I wonder why, instead of using words such as "as nearly as possible," you did not discuss these matters with the union and say that it is not going to be as nearly as possible, but it is going to be a matter that is subject to negotiation between the legal representatives of the workers, where the employees are represented by a union, and by management. A lot of clarity needs to be developed on what is, and what is not, up for negotiation.

Mr. Stoughton: I refer you to page 2, number 7 of the guideline

having to do with standardization. The hospitals have completely committed themselves to extensive consultation with the various representatives of employees covered by collective agreements. We recognize that it is impossible to predict every individual situation in a policy, in a guideline or, for that matter, in an act amalgamating two hospitals. Hence, we put in language to do our best to assure people that there would be discussion prior to finalization of any of these efforts.

Mr. D. S. Cooke: I am not questioning that there is any hidden agenda. It is just that when you are dealing with the numbers of employees that you are dealing with and dealing with the amalgamation of two huge institutions, it is predictable, as it was under Bill 30, which dealt with the Catholic and public school funding issue, that people get nervous about their futures. Can you try to explain why there was not more initial discussion with the representatives of the employees?

Mr. Stoughton: I will try to respond to that. We heard the Canadian Union of Public Employees representative say that there are monthly labour-management meetings and the meetings did address the subject of merger. In the absence of any specific amalgamation effort in any one department or area, the discussions did not take any shape. It was not until September 1986, as you have heard, that we came up with a policy that effected the issue of job security and seniority. In the absence of that policy, we were consistently reinforcing the fact that there would be no job loss.

You have correctly pointed out that when you go through a process of change such as this, it raises a great deal of uncertainty. We are the first ones to recognize that. I suspect if you find us remiss in any area, it might be that we did not try to put this policy on the table earlier. Having for the moment said we accept that, I think the policy is fair and good and certainly establishes guidelines that have the interests of the employees at heart.

Mr. D. S. Cooke: You would not have any difficulty, then, with putting some of the basic principles of the policy in the legislation?

Mr. Stoughton: My personal feeling is that you want to avoid language in legislation that essentially tells an organization how it has to manage itself. I say this simply because the focus of institutional management in Ontario, and across Canada, has been through boards of trustees in the past. It rather sets a precedent to introduce into legislation, all of a sudden, language that would suggest how institutions should be managed.

What the committee has to do on that issue is judge whether these guidelines are the type of guidelines that represent a responsible organization to the employees who work in it. My opinion is that they do. I hope the committee has a similar opinion.

Mr. D. S. Cooke: In terms of precedent, there have been Bill 30 and the regional government bills, for example, where publicly elected representatives of the taxpayers form policy. The Legislature of Ontario did not hesitate to tell the trustees of those public purses how personnel matters should be handled when we were facilitating the change in policy by passing legislation here.

Mr. Kenny: One of the main concerns the hospitals had when they were formulating the guidelines was that they had to recognize their obligation under the Labour Relations Act to negotiate with a variety of different unions which might have a variety of different interests. All the things about which

CUPE indicated some concerns are subject to negotiation and subject to binding arbitration, should the parties not be able to agree upon those things.

That covers all the employees who work in the hospital. Once the plans with respect to changes actually become more fixed, the hospital, using these guidelines as just that, guidelines, will be sitting down with each union, when its interests are affected, to try to address the specific concerns. We have some concern about putting standardized items into the legislation itself which might not fairly address the concerns of each of those individual unions.

Mr. D. S. Cooke: Just a final question: I would like to get a better idea, not on the capital side of your budget but on the operating side, of where you would expect some financial benefits as a result of amalgamation.

Mr. Stoughton: On the physician side of it. Is that what you are asking?

Mr. D. S. Cooke: Rather than equipment and so forth, which is in your capital budget. Will your regular operating budget cover staff or other regular expenditures?

Mr. Stoughton: In terms of some of the things we are looking at, if I can be a little specific--and we have not made any decision yet because a lot of these issues are under evaluation--I will give you an example of the kind of thing we are evaluating. We are looking at the two clinical lab services that are the most automated in the hospital, biochemistry and haematology.

We are also looking at the fact that one institution needs a major upgrading of lab services. It also needs an upgrading of the type of equipment that is normally associated with the modern lab. In the process of looking at that, although all the results are not in, our expectation is that there will be some economies by using equipment that exists at another hospital for some of the blood work, urinalysis and other specimen testing that goes on in patient diagnosis.

The net result of that would be to free up positions of lab technicians, so that those positions become redundant to the existing work load within the hospital. However, in the one area in which we feel fairly comfortable that we can make some headway, we have already initiated discussions with some of the affected employees and talked to them about the opportunity for expanding lab services into areas in which we currently are not able to provide a certain type of service, simply because we do not have the resources to do it.

The discussion that is taking place with the employees in that area, therefore, is whether they would be interested in changing job responsibility to a degree. It would still be consistent with their overall responsibility as laboratory technicians but it would be slightly different from the kind of job that they are currently doing.

That is an example of where we anticipate the ability to become more efficient in an area in which we are currently providing services, and free those human resources so the same individuals can still be used in the lab area, but used in a way to provide even more services to the patients within the two hospitals and to the ambulatory patients who also receive treatment there.

Mr. Ward: I have a couple of questions. Reference was made to the

fact that the hospital administration did involve themselves in discussion with middle management and medical staff with regard to seniority and job security. Why were those discussions held with that group and not with the unionized employees? Was there a reason for that?

Mr. Stoughton: In September, there was a meeting between the representatives of the local unions of both hospitals about this particular policy. That meeting was conducted at the same time we were having discussions with the other groups.

16:50

Mr. Ward: Is it fair to say those other groups are not covered by collective agreements?

Mr. Stoughton: Certainly. Physicians are not covered by collective agreements, nor are hospital middle managers and senior managers.

Mr. Bakker: Maybe I could expand on that a little. There is an implication in your question that discussions and deliberations were held with middle management and medical staff. In fact, the meetings we held with middle management were no more than information meetings which we invited the union to attend. Therefore, the medical staff and the middle management staff did not sit down and hold great deliberations to discuss the wordings and nuances of the policy, but were simply informed in a normal communication process that starts at the top and works its way through various organizational levels.

Mr. Offer: Mr. Stoughton, regarding your response on the different types of lab work that might be accomplished and the different types of job descriptions, could you tell me whether there would have to be a different form of training for those persons? If so, how would they obtain the training and whose responsibility would it be?

Mr. Stoughton: In the event that a new job requires training, it would be the responsibility of the hospital to make sure it took place through medical staff and senior management. In the event it was absolutely required, an employee would be sent outside the institution for the education. More than likely, though, we would have the resources within the institution to provide the specific training.

Mr. Offer: You intend to provide training to employees for different types of job descriptions so they will be able to carry on the new form, in that particular instance, of the laboratory work?

Mr. Stoughton: That is correct. I should also mention that in many cases the expanded capability will not be entirely new but will represent an expansion. There will be people in the organizations in a position to do the training.

Mr. Reycraft: I was not here for the presentation. I apologize for that. Perhaps the question has already been answered, but I am interested in knowing the comments in response to the concern we heard from the group previously before us about attrition already under way and the reasons for it.

Mr. Stoughton: The only thing I can do on that is to assure the committee that the comments made are not related to any actions that have taken place as a result of the merger. In a way, the comments represent the kind of pressures Ontario hospitals are under as they attempt to provide patient care services and stay within their budgets.

In a way, some of the comments pinpoint why the merger is important. Even if we cannot expand services, if we can take existing resources and use them more efficiently, maybe we can maintain a current level of services given the available dollars. All that has to be to the benefit of the patients we are trying to serve. Also, it is fair to the employees who help us to provide those services.

I can only assure the committee the attrition that has taken place has not come about as a result of merger considerations. It is a result of budget constraints on hospitals and the effort to stay within the total dollars available.

Mr. Reycraft: How will the merger affect the attrition rate, in your judgement?

Mr. Stoughton: Since there is an understanding with the government that savings will not be pulled out of the two hospitals, the attrition rate within employee support groups is likely to be quite small. Nevertheless, the attrition rate within the management group of the hospital--there will be some redundancy at the management level--will be more easily identified. In other words, job positions at a management level have been and will be eliminated as a result of attrition. In the case of lab technicians, clerical staff, nurses and so on, there will be very few jobs eliminated as a result of attrition. There will be more of a shifting of responsibilities in the areas where we are currently hard pressed to provide services.

The Vice-Chairman: That completes our questions. Thank you for appearing before us and providing us with the information you have. You may want to make a final remark. Do you also have a copy of your brief that you can leave with us?

Mr. Stoughton: Yes. If you get a copy of the Lapp report and study it carefully, you will find the personnel policy before you is entirely consistent with the report. The difference is that it does not go into anywhere near the detail of the Lapp report. However, the general principles contained in this policy are right on with that Lapp report.

The Vice-Chairman: Would members like us to secure a copy of the Lapp report? How extensive is that document? Is that readily duplicated?

Mr. Stoughton: We can make the Lapp report available.

The Vice-Chairman: We have no problem with that.

Mr. Andrewes: Before the two combined legal counsels leave the table, I wonder if they might comment on enshrining certain employment policies in legislation.

Mr. Kenny: As I indicated before, the employment policies for each specific group will depend on what those groups wish to negotiate with the hospital for the employees they represent. One of the items mentioned was contracting out. There are currently guarantees and protections against contracting out in the specific collective agreements that apply to each bargaining unit. To impose specific guarantees to cover all groups identical in form would be unfair to the negotiation process that is subject to third-party arbitration should they not be able to agree. That is the best forum to deal with specific terms and conditions of employment. There is an effective way to resolve problems in that area.

Mr. Shirriff: My name is Robert Shirriff. I am a lawyer with the firm of Fasken and Calvin. I have not participated on the labour law side. I participated with the two hospitals in the drafting of the legislation.

I would like to bring to this committee's attention subsection 4(3) of the bill, which is typical amalgamation language. It indicates that on the amalgamation of the two hospitals, the continuing corporation will possess all the properties, rights, privileges and franchises and shall be subject to all liabilities, contracts, disabilities, etc. of both hospitals. This is simply a merger bill. It brings forward and enshrines the provisions of the collective bargaining agreements that now exist with each separate hospital into the merged hospital.

In so far as Mr. Kenny has taken the position, with which I concur, that job security and contracting out are properly the subject of collective bargaining and the agreements with the unions, that status is protected by this bill and no special legislation is required or desirable. It would be a departure from a very worthwhile process; namely, the collective bargaining process.

17:00

Mr. D. S. Cooke: It is fair to say--

The Vice-Chairman: With all the questions, we cannot have this go on for ever. Mr. Cooke.

Mr. D. S. Cooke: First, I remember talking to the hospital less than a week ago and being told that the union was making reference to the Lapp report and that the hospital was not aware of the Lapp report. So let us not discuss the development of the policy that the hospital has come up with in the context of the Lapp report when the hospital was not aware of it.

Second, to legal counsel, is it not true that you have enough management rights so that there can be layoffs as a result of amalgamation and, while it is helpful to understand the direction of the board, a policy can be passed and changed by the same board that passed the policy originally? It does not offer the same kind of protection that a legislative provision offers.

Mr. Kenny: If I am not mistaken, that protection has been placed in one of the collective agreements at Toronto Western Hospital recently. It has been enshrined in that way so that the negotiation process has come about effectively in that regard. None the less, were the hospital to turn around and lay off an employee as a direct result of the merger, an arbitration board, put together to determine whether there was just cause for that layoff, would very likely find the hospital has been stopped from laying off as a result of the commitment made by the board. Therefore, there is adequate protection as a result of the policy being passed.

Mr. D. S. Cooke: The policy can be changed by the board. Just because you have a policy, who determines whether a layoff is a direct result of amalgamation?

Mr. Kenny: A third party would have to determine that and there are processes in place to have that occur.

Mr. D. S. Cooke: That is part of the policy. What possible opposition would the hospital have to simply putting in a provision that says,

"No one is going to lose a job as a result of amalgamation and if there is a dispute as to whether a job is lost as a result of amalgamation, the parties will have the right to go to arbitration"? How would that be contrary to the policy of the board? If it helps assure the employees of the hospitals that they are not going to be harmed, I do not understand the opposition from the boards.

Mr. Stoughton: The real question is whether you believe the boards are going to proceed to change the policy they have created. The assurance of the hospital is that the boards have no intention of changing that policy. To encompass that into the act is, in a sense, telling the boards that you do not trust them. We cannot agree to that kind of message, given the fact that the boards have been very conscientious in looking at this issue and they stand by the policy they have passed.

Mr. D. S. Cooke: Mr. Stoughton, the first meeting the administration had with the unions on the policy was in September. The unions had no direct input in developing the policy that was approved by the boards. Why should the unions and the employees who are involved believe they have been part of this process when they have not been part of this process?

Mr. Stoughton: I would be repeating myself if I addressed that again.

For the record, when the Lapp report came up, the hospital was not aware of the individual who chaired that committee, whose name is Lapp. The hospital is very aware of the report that was written, and when that report began to be called "the Lapp report," we were not aware that we had seen it even though we had seen it and, in fact, it is in accordance with the policy that is before you.

The Vice-Chairman: I see no further questions arising. I gather that all statements have been made. Thank you for coming before us. We have a copy of the presentation.

The person who is listed next on your schedule is present but wanted to listen and not to speak. I understand there are two representatives of the--

Interjection: He wants to speak now.

The Vice-Chairman: All right. We are flexible. Darryl Crawford, United Plant Guard Workers, Toronto General Hospital. I hope you will bear with us if we do not give you a full half hour because we heard you might not be making a presentation. Not hearing to the contrary, we let other people go on. Could you be fairly economical with your remarks and committee members with their questions?

Mr. Crawford: I will be very brief.

UNITED PLANT GUARD WORKERS, TORONTO GENERAL HOSPITAL

Mr. Crawford: Being a member of the United Plant Guard Workers of America, which is the smallest union in the hospital, we understand Toronto Western Hospital has an agency providing security. I am not talking only about security in the hospital; I have had experience working in the medical records department, which is nonunion, and in the film library, which is nonunion. For the past seven years I have been a security officer. I was also shop steward at Mount Sinai Hospital, for which the Toronto General Hospital provides security.

The big question within our department and other departments we have talked to is, if there is a merger between Toronto Western and Toronto General and a loss of jobs--if our department is phased out--then a lot of older men in my security department will find it difficult to be retrained for a different position.

I read an article last year or the year before in a United States newspaper where the same thing was going on. A lot of employees who had lost their jobs in one hospital found out, when they were about to be transferred to another hospital, the only job opportunities available for them were those for which they were not qualified; they would have to go through an extensive retraining period. This is bothering us more than anything.

We would like to give you an example of a security officer becoming perhaps not a technician but something that would take a year or a year and a half to learn in order to be fully competent in the job.

When I worked in the film library in the Toronto General Hospital, I was there a year but still could not make head nor tail of the job itself because it is such a big department. More than anything, we are concerned not about the institutions themselves, which are both fine, but about the employees.

There are a large number of people, especially the nonunion personnel who have no one to turn to, no shop steward to ask, and who are left up in the air as to what is going to happen to them. Are they going to be suddenly hauled over to another hospital where they will be working from eight to four? With our own department, will they find some day that they will no longer be security officers but will be mopping the floors or something like that? As I say, it concerns us a lot. We feel it more than the other unions because we are a small operation. Security in itself has always been a precarious position whether you are in-house, an agency or whatever.

That is all I have to say.

The Vice-Chairman: Do any members of the committee wish to respond or ask questions?

Mr. Grande: I have one question. Have you asked the administrator of the hospital about the concerns you have? If you have, what answer did you get?

Mr. Crawford: No, we have not. We are such a small union. We are dealing with an arbitration case right now so we have not had time to examine it. I came here today with absolutely no notes. I was not even aware of what was going to happen here. I thought I was going to come in and listen. But, as I said, being in the hospital where I worked for eight years, I know I can come and talk about whatever bothers our department or whatever I have seen in the hospital over the years.

17:10

The Vice-Chairman: We have Mr. Stoughton here, the president of Toronto General Hospital, who made a statement that if there were no jobs, we would have to find other jobs for them. Mr. Stoughton, do you want to come forward and address the question of retraining and matters such as that, which have not discussed?

Mr. Stoughton: I have indicated on the record that to the extent

retraining is required, it will be the responsibility of the hospital to provide the retraining.

I might respond to the security issue. We are not closing the institutions; we are not decreasing beds; and we are not decreasing the amount of space. If anything, given the complexity of our large institutions, the issue we are always up against is adding security staff, not cutting back. There is absolutely no intention to do away with the security department, which is an extremely important department in each institution.

The issue in front of us in the future will be how we can maintain a strong security force and how many people we need to do that. My own perception of it is that we need more, not fewer.

The Vice-Chairman: I think that satisfies at least one dimension of your concern which, in turn, wipes out another. I hope that is helpful. Thanks very much for coming and making your presentation.

We have two representatives of the Ontario Nurses' Association, if they would care to come forward, Seppo Nousiainen and Mary Hodder.

ONTARIO NURSES' ASSOCIATION

Mr. Nousiainen: Mary is the manager of employment relation services. I will pass out a copy of our briefly prepared brief.

The Vice-Chairman: You may go about your business and give it to the clerk to do the rest of the job.

Mr. Nousiainen: The Ontario Nurses' Association represents approximately 42,000 registered nurses in Ontario hospitals, nursing homes, homes for the aged, public health units and related institutions. Our combined membership at Toronto Western Hospital and the Toronto General Hospital is approximately 2,400, represented by ONA Locals 155 and 97, respectively.

Bill 129, the current bill, seems to us to be basically concerned with the mechanics of transferring legal authority from two institutions so that the resulting entity will function as a newly constituted corporation. As such, the bill proposes to grant the new corporation all the legal provisions that will enable it to do so. This is where the matter will rest until further provisions are incorporated into the statute.

We in ONA take the view that the legislation does not go nearly as far as it should or could go. In particular, nowhere in the proposed legislation is there any mention of job guarantees to the affected employees, even though Toronto General Hospital has already issued a set of guidelines which very specifically state that "no employee shall lose their employment as a direct result of this merger."

We believe Bill 129 would be considerably strengthened were such a guarantee provided, given that the Toronto General Hospital statement is merely a guideline, as opposed to a legislated requirement. Furthermore, we note that employment guarantees have precedents in this province through amendments to the Education Act, Bill 30, and earlier, when employees were guaranteed continued employment in municipalities affected by reorganization.

Bill 129 is, furthermore, deficient in that it does not deal with a host of problems related to advance information, maintenance or transfer of

bargaining rights, seniority provisions, wage guarantees, levels of benefits, hours and probationary period.

In this respect, we draw this committee's attention to a recently completed report--April 1986--of the Ontario Hospital Industry Labour Management Committee dealing with the question of employee transfer arrangements in hospital service rationalization, otherwise known as the Lapp report. I gather everybody is talking about the Lapp report.

This document was drawn up jointly between the management of hospitals and the unions involved and serves as a guide to facilitate rationalization. For the convenience of this committee, we have appended a copy of the Lapp report, which provides specific language in areas we believe should be incorporated within Bill 129. You will find that at the back. People may or may not have a copy of this, so they have one now.

Without involving the committee in a line-by-line analysis of the contents of the Lapp report, we simply wish to point out that Bill 129 would be much more comprehensive were it to adopt the specific language of the Lapp report with regard to the following issues:

Advance notice: A general provision should be included which compels hospitals to notify unions and employees immediately once a formal decision has been taken to rationalize.

Discussions on how best to effect the rationalization should begin immediately and all information concerning the numbers of employees and classifications should be given to the unions and employees.

Employees should be allowed to post out of affected units and into unaffected units prior to new hires.

Unions should be allowed to maintain existing bargaining rights in the units to be affected.

Seniority on nonmonetary items should be integrated and all transferring employees would be treated as much as possible as though they had always been employed at the receiving hospital.

No employees should suffer a reduction in wages.

The integrity of benefit plans should be maintained, including grandfathering.

Hours of work should not change.

No transferred employee should be required to serve a probationary period.

In conclusion, we believe Bill 129 would be much strengthened were this committee to adopt the specific provisions we have outlined in the foregoing.

Hospital mergers present serious issues for all involved in them, but the greatest immediate threat is to those who work in them. This presentation is thus concerned with protecting the interests of these employees in a manner which is both just and workable, all of which is respectfully submitted by the Ontario Nurses' Association.

The Vice-Chairman: Thank you. That was very brief and to the point. Do committee members have any questions?

Mr. Andrewes: Am I allowed to ask Mr. Ward a question?

The Vice-Chairman: It depends what it is. Do not ask him a question he cannot answer.

Mr. Andrewes: When the the Ontario Hospital Industry Labour Management Committee was struck and produced its report known as the Lapp report, did it contemplate the guidelines it offered serving as guidelines for a hospital merger?

Mr. Ward: Martin, do you want to respond to that?

Mr. Campbell: This committee was convened in 1984-85. I am not fully conversant with the background of the committee and I do not know whether it was asked to convene to speak to specific problems. As I read the report, I cannot see there was any attempt to suggest the recommendations of the committee be put into legislation. It appeared to me the guidelines for use in particular circumstances had to be followed. I cannot comment on the report further than that.

Mr. Nousiainen: Can we make a comment in relation to that question?

Ms. Hodder: Having sat on the committee responsible for the Lapp report, I can indicate it was a subcommittee of the larger committee, which had difficulty dealing with the issue at hand. Therefore, they struck a subcommittee to look at it. The issue was dealt with from a rationalization perspective. In a community, two hospitals with an obstetrics department or a paediatrics department were amalgamating into one. It was in that context that the committee looked at rationalization, not in actual fact, of the magnitude of the merger between two hospitals.

Mr. Andrewes: Thank you.

The Vice-Chairman: Is that all, Mr. Andrewes?

Mr. Andrewes: That is all.

Mr. D. S. Cooke: Just out of curiosity, when did this process start at Toronto General Hospital and Toronto Western Hospital? Do you know when the first serious discussions took place?

Ms. Hodder: There were rumours for a considerable period of time. I cannot honestly tell you about the actual deliberations because it was only in September that the matter was discussed with the nurses.

Mr. D. S. Cooke: I take it there was a rationalization study. This is going back to--

Interjection.

Mr. D. S. Cooke: I wonder if Mr. Stoughton can answer. I am looking at the Lapp report. I hope it will lead into something relevant.

The Vice-Chairman: Do you want Mr. Stoughton to come to the microphone to respond to the question of original discussions?

17:20

Mr. D. S. Cooke: Obviously, the Lapp report is more than a set of guarantees; it is a process, as well as some basic guarantees that are given to employees. Perhaps some of the guarantees have been given but I am not sure the process that has been followed. There was a rationalization study, I take it?

Mr. Stoughton: If one goes back, I suspect one could concede that a step towards the merger occurred when Toronto Western Hospital independently determined it would no longer provide obstetrical services, ironically, and Toronto General Hospital sat down with Toronto Western and the Ministry of Health and looked at whether the obstetrical case load of Toronto Western could be amalgamated into that of Toronto General. There would then have been a transfer of existing staff--medical, nursing and other support staff--from one institution to the next. I have to think when that occurred; I have not really thought about this. It started earlier, but it finally took place in 1984 when the obstetrical services were combined.

The so-called Lapp report has not had a lot of distribution to Ontario hospitals for some reason. That is why we indicated originally to Mr. Cooke that we were not aware of it. The process that was followed by the two institutions in amalgamating obstetrical services, even though we were not at that point considering total institutional consolidation, as I recollect, was consistent with the Lapp report in terms of creating an opportunity for each affected employee to remain at the institution at which he was currently working or to transfer to the other institution to the same service and with the same job responsibility that he had in his former position.

Mr. D. S. Cooke: That was in 1984?

Mr. Stoughton: Yes. Discussions actually started a year and a half earlier because it took some time actually to put together the obstetrical services.

That quietly got us to the point where it was recognized there were some advantages to program consolidations and we thought about the most efficient and effective manner of achieving these. We concluded, from May 1985, which is the date I gave, until October, that we should openly discuss whether there should be a complete institutional amalgamation because of some of the benefits that had accrued as a result of the consolidation of obstetrical services. I will not go into all those benefits.

Mr. D. S. Cooke: The first discussions--

Mr. Stoughton: The first formal discussions of merger began very quietly at a board level in May. The summer slowed it down a bit simply because of vacations, etc. It began in May 1985 and then became quite open in early October 1985. That was in my opening comments.

Mr. D. S. Cooke: Was a rationalization study done?

Mr. Stoughton: It depends on what you mean by a rationalization study. We looked at the areas in which we felt we could improve patient care programs, teaching programs and research opportunities between the two hospitals. It was recognized in both hospitals that they are broad-based general hospitals. At the time of the merger, there was a commitment to maintain the broad-based nature of the two hospitals, so a rationalization study was more from the standpoint of the principle that if you can consolidate the highly specialized services, it will lead to greater

efficiencies, improve patient care and therefore improve teaching and research.

There is ample medical evidence that an improved outcome occurs when the same group of people--the same physicians, nurses and support staff--are providing highly specialized patient care services to a larger number of patients simply because of the fact that they get more experienced in doing it.

Mr. D. S. Cooke: Mr. Stoughton, if you got elected to the Legislature, you would be in the cabinet right away because you would do really well in question period. I compliment you on that. I am looking at the guidelines that are set out in the Lapp report. The Lapp report says on page 4:

"The sequence of events leading up to the rationalization of hospital services is generally as follows: A rationalization study is initiated..." and then it goes on.

There is a statement here that the process takes at least two years. There are people here that should be consulted and processes that should be gone through. Here we are talking about the amalgamation of two hospitals that will have a total budget of about \$300 million. It seems to me that the process under the Lapp report has not been followed at all.

Mr. Stoughton: In the area in which we are really looking at program consolidation, I mentioned the lab areas. In fact, the Lapp report has been followed absolutely. We got very serious about the opportunity. We recognized there was an opportunity to use some of the automated equipment at one institution and then shift jobs. In fact, we have sat down with the affected employees and begun discussions about how best to handle that.

The other areas are currently being studied by a number of different people. In fact, until we know that we can improve patient care programs and either do it at the same level of resources or potentially do it more efficiently, it is not appropriate to sit down with a group and talk about change that in all likelihood will never happen. I think what everybody has to keep in mind, in that there is a commitment to maintain two broad-based hospitals and a commitment not to reduce bed size, is that, in fact, more than 80 per cent of the employees of the two organizations will never have a job change as a result of this consolidation.

Mr. Cooke: I understand all the guarantees, but I am in a committee that was set up to look at plans for rationalization, how institutions should deal with one another and how institutions should consult with employees and communities and so forth. In this particular case, which has to be the largest amalgamation of two hospitals ever to occur in Ontario, I do not know whether we are short-circuiting the process. We are passing something that really started in October of 1985. Here we are in October 1986 and the guidelines say that this thing takes at least two years, normally, if it is done properly.

Mr. Stoughton: I should point out for the benefit of the committee that the Lapp report was not released until April 1986 in the first place.

The Vice-Chairman: The question has drawn on and taken time from the Ontario Nurses' Association. I know what you want to get at, but we have taken quite a bit of their time. Can we get back now to the presenters who are before us in this time slot and see whether there are further questions the committee would like to present to them?

Mr. Baetz: You have indicated you would like to see more safeguards spelled out right in the legislation itself. We have heard legal counsel from the hospital say "All the safeguards are there now, because in the merger you assume all the contractual guarantees and so on." Can you tell us more specifically why you do not quite accept the views of the legal counsel? What are the shortcomings in that?

Mr. Nousiainen: They are presented as guidelines, and as far as I can tell, it would be much preferred were these to be included as part of the legislation itself--legislative guarantees as opposed to a guideline. I assume a guideline can be changed.

Mr. Baetz: I may be mistaken but I had assumed, when legal counsel talked about assuming contractual agreements, that he was referring to more than guidelines. Perhaps I am wrong.

Mr. Nousiainen: I am not aware of it. I did not hear the presentation made by the legal counsel or the--

Mr. Baetz: I wonder if we could have the legal counsel for one second just on this question? What kind of contractual encumbrances do you--

Mr. D. S. Cooke: You have a copy of it.

Mr. Baetz: That is not the entire one, as I understand it.

Mr. D. S. Cooke: That is a policy of the board's.

Mr. Baetz: But there are no other--

Mr. Kenny: No. We were speaking specifically of the collective agreements which bind the relationship between each union and the hospital.

Mr. Baetz: Exactly.

Mr. Kenny: Those contractual relationships are continued in the new organization. The Toronto Hospital will assume those contracts.

Mr. Baetz: But that goes far beyond guidelines.

Mr. Kenny: Oh, much further.

Mr. Baetz: This is what I am asking.

Mr. Nousiainen: Yes, but they are talking about guidelines in their presentation to you and to us. They are not talking about collective agreements. If these provisions were found in collective agreements, that would be an entirely different story. But this memorandum from the hospital, of which I have a copy, just says, "This is what we are going to do." It is a statement of the policy of the boards. As far as I can tell, this is a guideline unilaterally set by the hospital. It is not particularly binding; it can be changed.

17:30

Mr. Baetz: I had assumed from what legal counsel had said that all kinds of agreements exist between both Toronto Western Hospital and Toronto General Hospital and their unions; apparently there are a number of them.

Those agreements or contracts will be binding upon the new board. If that is the case, is that not enough for you, and why not?

Mr. Nousiainen: What I am saying is that I am not aware that is the case.

The Vice-Chairman: That is a fair answer.

Mr. Ward: With regard to your concern about the Lapp report and the fact that we have had dozens of hospital rationalizations in this province in the absence of any need for legislation, what we are doing here is amalgamating two boards created by an act of the Legislature.

If your concerns are about how the guidelines are followed with regard to the rationalization of services that may take place between the two hospitals, and given that both hospitals have indicated they want to remain broad-based community hospitals, does the rationalization of services not take place at a later date?

In this legislation, we are not talking about closing down one department at the General and putting it at the Western or vice versa; we are talking about the amalgamation of the boards and the generation of certain efficiencies in administration. But are we truly talking about a rationalization as envisaged by the Lapp report?

Mr. Nousiainen: It could happen. It has happened in other areas. It has happened in municipalities before.

Mr. Ward: Why can those guidelines not kick in at the time a rationalization is to take place? If somebody could show me how Bill 129 represents a rationalization of services as opposed to a consolidation or amalgamation of the boards of trustees, I would appreciate it.

Mr. Nousiainen: It does not; that is the problem.

Interjection.

Mr. Ward: Oh, come on.

Mr. D.-S. Cooke: --passing of Bill 129.

Mr. Ward: You know as well as I do that there have been all kinds of rationalizations taking place in this province.

The Vice-Chairman: Do you have a further response to Mr. Ward on that?

Mr. Nousiainen: I am not sure about this point. I am not sure there actually have been that many rationalizations. In a sense I am suggesting this is a new area we are entering. The potential for job loss exists; it is a real and present danger. It has not been looked at in any detailed way. However, it has been looked at in other areas, such as municipalities and the recent Education Amendment Act, and the legislative response has been to provide job guarantees through legislative provisions. Are hospitals somehow different? I am not sure.

Mr. Ward: Are you saying there is an exact parallel with the transfer of an anticipated 300,000 students from one publicly funded school

system to another and the need to provide for the shift in employment from one to the other or with the elimination of county structures and their replacement by regional government structures? I do not see that. We had two institutions before Bill 129--

Mr. Nousiainen: The analogy is the same. The magnitude of the problem may not be the same.

Mr. Ward: I do not even see that the analogy is the same.

Mr. Nousiainen: Sure it is.

Mr. Andrewes: This is one time when I might have to agree with Mr. Ward. I am having trouble seeing the analogy. With the passage of Bill 129, we still will have two hospitals--at least that is what we are being told--which I expect will operate with a degree of rationalization. I assume that is the purpose of the amalgamation. However, it seems they are still going to retain two identities.

Mr. D. S. Cooke: If there is no concern about job loss, why did the board pass a policy referring to jobs being guaranteed and saying no jobs will be lost as a direct result of amalgamation? If it is not an issue, why did the board address it?

Mr. Andrewes: I did not suggest there was no concern about job loss. That is obviously why we are having this committee hearing.

The Vice-Chairman: The committee is now engaging in debate within itself rather than dealing with our presenters, and perhaps I should discourage that. I think Mr. Reycraft has a question.

Mr. Reycraft: My question addresses subsection 4(3) of the bill, which requires the new corporation to accept all the contracts existing as of the date of the merger. Does the deputation agree that the collective agreements are contracts in that context? Does the term "contracts" include collective agreements, in your opinion?

Mr. Nousiainen: I am not the legal counsel for the Ontario Nurses' Association. I hesitate to comment on that. I have heard the term "executory contract" as perhaps being more accurate, but I am not sure about that point.

Mr. Chairman: Can the legal counsel for the hospital comment?

Mr. Shirriff: The effect of that clause would pass over all the rights and liabilities of each collective agreement to the amalgamated hospital.

Mr. Nousiainen: It may be wise to look at that wording. I do not know whether that is a commercial contract. I am not legal counsel for our organization. I see the term differently; among other things, you could just call it "collective agreements."

Mr. Reycraft: That may be the case, but when you look at the whole phrase and say it is "subject to all liabilities, contracts, disabilities and debts," to envision a scenario where collective agreements are excluded from that is not a very reasonable interpretation to be taking. If they are included, how could there possibly be--I will look at the list you have put before us--any reduction in wages, any reduction in the integrity of benefit

plans or any change in the hours of work? In other words, if that is the case, why do we need these protections in legislation?

Mr. Nousiainen: They are good things to have. On this section, again, certain things may happen as a result of amalgamation. Just so there is no misinterpretation of what rights are due to each party, it is probably better to spell it out. Perhaps there is no absolute need in the sense that if it is spelled out in the collective agreement, perhaps it is okay. However, just so there will not be a mistake, it is probably preferable to be clear and specific about that.

For example, I suppose somebody could say it did not apply to collective agreements because they are not really contracts. You will get a problem with wording on contracts, and suddenly you will not know whether the wages and other terms and conditions will in fact be covered by that term. You may create a gap in terms of comprehensiveness and understanding. Therefore, be explicit and be up front with it; be clear with it and put it in. If that was intended in the first place, what is the difficulty in actually being specific about it, just to clear up any potential misunderstanding?

Mr. Campbell: The wording used in clause 4(3)(a) is classic wording. The word "contracts" is a word with very broad meaning and includes collective agreements. It was never the intention that collective agreements not be included. I think the wording is precisely the best wording in all the circumstances; it is as broad as it can possibly be, and it makes quite clear that all that existed prior is going to be carried into the new corporation. That is certainly the intention.

Mr. Nousiainen: If that is the case, that is fine.

Mr. D. S. Cooke: I am looking at a collective agreement that was signed by the hospital and CUPE which has a section that is similar to other union contracts I have seen. Article 15 is "Layoff and recall." Obviously, it allows management to lay off individuals, and it provides for notice, bumping procedures and recall rights.

Would it be fair to say that if this bill passed, without some guarantees of jobs in the bill, there is nothing in most union contracts--and I do not know whether there is anything in your union contract--that says there cannot be layoffs and that if there is a dispute regarding a layoff, you have the right to grieve and go to arbitration? A basic management right in contracts is that it can lay off. All we are saying is that the legislation should say there cannot be layoffs as a result of passing Bill 129. Is that fair enough?

I do not know what protections people are referring to in collective agreements. I have never seen a collective agreement that says there can be no layoffs.

Mr. Nousiainen: That is right. I am not conversant with CUPE collective agreements, particularly on these issues, but yes, many of them are deficient in many areas simply because they have not been able to bargain that issue in the past.

The Vice-Chairman: If that completes questioning from the committee and if there are no further comments or concluding remarks from representatives of the Ontario Nurses' Association, thank you very much for coming and helping us with our task.

I have listed Allen Hawkes, who has not appeared; he has cancelled. Charles Parris is not present either. In that case, that completes our hearing.

I would like to ask the committee two questions. First, do you wish to proceed with clause-by-clause debate on the bill at this time? Mr. Cooke, do you have some sense as to whether you wish to proceed with clause-by-clause before you go through that door?

Mr. D. S. Cooke: I was going to have a cigarette in the hallway.

The Vice-Chairman: You may have to put that off if the committee decides otherwise.

Mr. D. S. Cooke: I have been working on two amendments, and they have to be refined with legislative counsel. We have not had an inordinate amount of time to prepare amendments. They will be ready for tomorrow afternoon. There will be only two amendments, one dealing with contracting out and a prohibition for two years and another one installing job guarantees into the legislation.

The Vice-Chairman: We have just completed hearings. People may want to do some reflection on amendments as a result of hearings. It is probably improper for us to push things to the point where we are doing clause-by-clause instantly upon the heels of hearings if in fact there are amendments being contemplated. Even if there were, 20 minutes is not likely to be sufficient time to complete that task. We will be in session on this tomorrow in any case. Why do we not simply leave it until tomorrow afternoon?

Mr. Andrewes: I admire the wisdom of the chair.

The Vice-Chairman: May I ask a further question? I presume the committee will be quite willing to entertain a written brief from Sean Usher of the Ontario Public Service Employees Union, who was unable to make a presentation this afternoon. We will take that into account whenever he can get it to us.

The committee adjourned at 5:44 p.m.

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